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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of 911 Act; Use of
N11 Codes and Other Abbreviated
Dialing Arrangements

)
)
) CC Docket No. 92-105,
) WT Docket No. 00-110
)

To: The Commission

REPLY OF MARITEL, INC.

Maritel, Inc. ("Maritel"), by its attorneys, and pursuant to the provisions of section 1.429(g) of the rules and regulations of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.429(g) (1999), hereby submits its Reply to the "Comments of NENA on Maritel Petition" ("Comments") submitted by the National Emergency Number Association ("NENA"), on November 14, 2000. NENA's Comments requested that the Commission deny Maritel's Petition for Reconsideration or Clarification ("Petition") in this proceeding and subject Maritel to 911 emergency calling services regulations. Maritel believes that NENA has mischaracterized Congressional intent regarding the provision of 911 emergency calling services and that such intent does not cover marine communications systems. Moreover, an obligation that Maritel provide 911 service would be contrary both to international regulations and the interests of the boating public. Accordingly, Maritel is pleased to have the opportunity to submit this Reply.

Background.

Maritel is a maritime telecommunications services provider, using frequency assignments in the 156-162 MHz frequency band to provide VHF public coast ("VPC") station services to commercial and recreational vessels in inland waterways, U.S. waters, and the high seas. As it

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demonstrated in its Petition, Maritel is not currently subject to 911 regulation by the FCC. Petition at 3. The FCC has already determined that Maritel provides a safety service that is more appropriate for its subscribers and other mariners. Maritel petitioned the Commission, for the limited purpose of clarifying in this proceeding that recent federal legislation declaring 911 to be the nation's emergency service number¹ does not otherwise change existing law exempting Maritel and similar providers from 911 regulations.

NENA's Comments.

NENA disputes Maritel's assertion that the 911 Act does not alter existing law. For example, NENA claims (i) that the 911 Act expressly covers all wireless and wireline services under its mandate;² and (ii) the 911 Act cannot be interpreted to exclude specialized carriers such as Maritel.³ To support its conclusions, NENA's states that no unintended or irrational results would be produced by subjecting Maritel to 911 regulation.⁴ NENA also makes a distinction between the emergency number dialed, and the location to which an emergency call is directed, suggesting that Maritel could transmit 911 calls and comply with its Part 80 safety obligations at the same time.⁵

Discussion.

NENA's assertion that the 911 Act covers providers such as Maritel is based on certain wording in the 911 Act that appears to broadly extend 911 services regulation to all wireless and wireline carriers. Maritel agrees that the 911 Act does contain broad provisions that, if read out of

¹ See Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, enacted Oct. 26, 1999, 113 Stat. 1286 ("911 Act").

² NENA Comments at 1-2.

³ NENA Comments at 2.

⁴ NENA Comments at 3.

⁵ NENA Comments at 3-4.

context, could be interpreted to cover carriers such as Maritel. However, in order to accept NENA's interpretation of the 911 Act, the Commission would be required to find that "wireless telephone services" are offered by entities other than "wireless carriers," as that term is defined in the 911 Act.

This argument strains logic, overlooks a key statement contained in Senate Report accompanying the 911 Act, and ignores the historical and existing provision of emergency services by VHF coast station licensees. First, had Congress intended to apply 911 obligations to entities other than wireless carriers (as that term is defined in the 911 Act), it could have explicitly done so. However, because the 911 Act contains no definition of wireless telephone service, but does define wireless carrier, logic dictates that, in the context of the 911 Act, wireless telephone service is provided by wireless carriers.

Moreover, the Senate Report which accompanies the 911 Act plainly states that the Congress did not intend to "subject any individuals or businesses affected by the [911 Act] to any additional regulation." Petition at 3-4.⁶ NENA agrees that Maritel is not subject to 911 obligations today.⁷ However, interpretation of the 911 Act in the manner urged by NENA would subject Maritel to additional regulation, contrary to the Senate Report's intent. Accordingly, the Senate Report supports Maritel's claims that: i) wireless telephone services must interpreted to mean services provided by wireless carriers; and ii) Congress did not intend to extend 911 obligations to entities, like Maritel, that were previously not obligated to provide 911 services. Finally, despite NENA's

⁶ See also S. Rep. No. 106-138, at 5 (1999).

⁷ NENA Comments at 3.

misinterpretation, the 911 Act does not cover VPC licensees by implied repeal of the FCC's decisions in its CC Docket No. 94-102 rule making proceeding.⁸

NENA is also incorrect that no mischief or unintended results would be produced if Maritel were subject to 911 regulations. The 911 Act extends state law 911 liability protections to "wireless carriers." As noted above, NENA does not dispute that Maritel is not considered a "wireless carrier" under the 911 Act. Accordingly, Maritel would not be provided with liability protections under the 911 Act. However, NENA asserts that Maritel is required to provide 911 services despite the fact that it is plainly not extended any liability protections, even though NENA concedes that liability protections should "precisely" correspond with the obligation to offer 911 services.⁹ This is exactly the irrational result that prompted Maritel to submit its Petition.

Finally, Maritel does not agree with NENA that 911-dialing and eventual 911 call-routing are different issues. NENA suggests that 911 calls handled by Maritel could be routed to United States Coast Guard Search and Rescue Coordination Centers ("USCG"). There is no indication that Congress or the FCC ever intended public safety answering points ("PSAPs") to be a nationwide federal entity. To the contrary, it is clear that both the FCC and Congress intended that PSAPs be local police, sheriff, and similar entities.¹⁰ Accordingly, in order to adopt NENA's position, the FCC would be required to undertake a revised definition of PSAPs.

⁸ NENA's Comments do not respond to Maritel's claim that it would be remarkable for the Congress to overturn the results of an FCC-conducted rule making proceeding without any comment whatsoever. Petition at 4. Yet interpretation of the 911 Act in the manner suggested by NENA would render that result, which appears contrary both to the context of the 911 Act, as well as the accompanying Senate Report. Both of those documents make it clear that Congress was concerned about implementation of 911 schemes, not changing existing federal policies related to the maritime industry.

⁹ NENA Comments at 2.

¹⁰ 47 C.F.R. § 20.3 (PSAPs are designated by "local or state entity"). *See also Revisions of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 12 FCC Rcd 22665, ¶ 98 (1997) (state or locality has authority to designate PSAPs). It is unlikely that a state or local entity could designate the U.S. Coast Guard as a PSAP without violating the Constitution.

Moreover, establishment of 911 as a marine emergency calling number and the routing of such calls to the USCG would be contrary to international procedures and the FCC's rules and would represent a denigration in the emergency services available to mariners today and in the future. Today, mariners in distress in United States waters initiate a "MAYDAY" call on VHF marine channel 16 or another designated emergency channel, which is monitored by other mariners as well as the USCG. The FCC's rules, which codify international agreements, specify actions that mariners must take upon hearing a distress call. In the future, when more vessels are equipped with digital selective calling ("DSC") transmitters, mariners in distress will be able to depress a single emergency button on VHF radios in order to send a digitally encoded emergency message to other mariners and the USCG. That digitally encoded message will often contain information regarding the mariner's position, allowing other vessels and/or the USCG to render assistance.

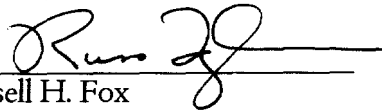
Thus, NENA's proposal that mariners be required to dial 911 for emergency purposes represents a denigration in emergency services to mariners for several reasons. First, it is contrary to international regulations and accepted procedures codified in the FCC's rules which specify the channels and processes for initiating distress communications. Second, under NENA's proposal, 911 calls would be forwarded only to the USCG, whereas under current and future maritime procedures, other vessels as well as the USCG will have an opportunity to render potentially life saving assistance. Third, mariners will be able to initiate emergency communications by depressing a single button on DSC radios; NENA would have mariners take the extra step of dialing 911. In this last instance, the initiation of a 911 call would presumably result in a voice conversation between either a marine operator or the USCG. That voice conversation would likely provide less accurate information than data automatically transmitted to other mariners or the USCG over DSC channel

70 or, in the context of non-DSC transmission, limit the universe of entities that could respond to the emergency communications.

Based on the foregoing, Maritel again urges the Commission to grant its Petition and declare that the 911 Act does not cover VPC licensees.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Carlah Wilson, certify that I have this 29th day of November, 2000, caused a true and correct copy of the foregoing "Reply" to be sent by 1st class U.S. mail, postage prepaid, to the following:

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